IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9171 OF 2007

M/s.Takwale Constructions Pvt.Ltd.... Petitioner.

Versus

Government of Maharashtra & Ors.... Respondents.

Mr. J. Shekhar for the Petitioner.
Ms. V.Mhaispurkar, APP for the Respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATED : 19TH DECEMBER, 2007.

P.C.:

This writ petition is directed against the order below Exh.46 in Regular Civil Suit No. 721 of 2007. The order under challenge rejects the application for amendment.

2. The petitioner is the original plaintiff in the suit. It is not necessary to go into the averments in the plaint in great detail in as much as all that the petitioner/plaintiff desired to do was to delete the District Collector, Pune; The Chief Engineer (Irrigation Department), Pune; The Superintending Engineer, Pune Irrigation Project Circle, Pune-I; The Superintending Engineer, Pune Irrigation Circle, Pune-II and the Executive Engineer, Chaskman Project

Division, Pune as party defendants. It also desires to omit the paragraphs in the plaint which make reference to them and the events arising out of the petitioner's inter actions with these Divisions. Having realised that the project was exclusively governed by the Maharashtra Krishna Valley Development Act, 1996 and Maharashtra Krishna Valley Corporation, the petitioner / plaintiff desires that this Corporation would be retained as party defendant. Whereas all others would be deleted. This necessitated omitting some paragraphs of the plaint.

3. Such an application need not have been opposed and even if opposed should not have been rejected by the trial Court. Ms. Mhaispurkar, learned APP appearing for the respondents, some of whom are already deleted, found it difficult to support the impugned order. Merits of the application need not be gone into and this is precisely done by the trial Court.

4. In such circumstances, the order under challenge is set aside.

5. The amendment application is allowed. The amendment be carried out within a period of two weeks from today.

6. The amended plaint be served on the Maharashtra Krishna Valley Development Corporation within a period of two weeks therefrom. Additional written statement, if any, to be filed within a period of four weeks from the date of receipt of amended plaint.

7. All contentions on merits of both sides are expressly kept open and it would be open for the respondent / defendant Corporation to urge that deleting of the other defendants would mean that the cause of action as against them also does not survive. Such plea can always be raised irrespective of the amendment being granted.

8. Writ Petition is, accordingly, disposed of with no order as to costs.

Sd/-

(S.C.DHARMADHIKARI, J.)